



## Subcontract Agreement

This subcontract agreement ("**Agreement**") is dated as of December 7, 2023, ("**Effective Date**"), by and between Blattner Energy, LLC ("**Blattner**"), with an address of 392 County Road 50, Avon, Minnesota 56310, and Excel Aircraft, LLC ("**Subcontractor**") with an address of 2228 SE Loop 59, Carthage, TX 75633. Blattner has entered into an agreement with Owner to perform certain work for the Project as set forth in the Owner Contract as defined below:

### Project

Project Number: 1041  
Project Name: SunZia Southwest Transmission and Wind  
Generation Project Southern Windfarm Facility – New Mexico, USA  
Project Address: Torrance and Lincoln Counties, NM

### Owner

SunZia South Wind, LLC  
1088 Sansome Street  
San Francisco, CA 94111

### Owner Contract

Blattner's BOP with the Owner dated: **September 8, 2023**

### Licensing

Blattner's NM License No.: **COA: n/a; GC/EC: 363886 (12/31/2024)**

363886

**Subcontractor's NM License No.** \_\_\_\_\_

If this entry is left blank, the Subcontractor represents and warrants that the Subcontractor is properly licensed and compliant with statutory and state requirements in the state where the Project is located.

The Subcontractor wants to provide certain Work (as defined below) to Blattner for the Project and Blattner wants to obtain such Work from the Subcontractor as a part of its work under the Owner Contract in accordance with this Agreement. The parties therefore agree as follows:

**1. NOTICES & COMMUNICATION.** All formal notices provided under this Agreement must be in writing and sent to the addresses designated below. All other communication and inquiries regarding this Agreement should be by email and reference this Agreement in the subject line as follows:

### SUBCONTRACTOR

#### General

Attn: Frank Cumnock  
Email: frankcumnock@excelmulching.com  
Phone: +1 (903) 235-9606

#### Accounting (Required)

Name: Matt Sparks  
Email: Mattsparks@excelmulching.com  
Phone: 903-693-7566

### BLATTNER

#### Legal

Attn: Victoria Braegelman  
vbraegelman@blattnercompany.com  
Phone: +1 (320) 356-2487

#### Accounting

Name: Amy Schlangen  
aschlangen@blattnercompany.com  
Phone: +1 (320) 356-2568

#### General

Phone: (320) 356-7351  
Insurance: [support@myCOLtracking.com](mailto:support@myCOLtracking.com)  
Sub-tier Lien Waivers:  
[lienwaivers@blattnerenergy.com](mailto:lienwaivers@blattnerenergy.com)

**2. SCOPE OF WORK.** The Subcontractor will provide design, labor, equipment, components, parts, materials, and services (“**Work**”) set forth in Exhibit A. The cost for the Work is set forth in Exhibit A (“**Subcontract Price**”).

**3. PAYMENTS.**

(a) Invoicing, Payment, and Lien Waivers.

The Subcontractor must enter invoice information and amounts, execute lien waivers, and submit other required documentation electronically using the Oracle Textura Payment Management system (“**Textura**”). The Subcontractor is responsible for the fees and costs charged by Textura.

Payments will be made by Blattner within seven (7) days after receipt of the related payment from the Owner, but no later than forty-five (45) days from acceptance of invoice, whichever is sooner; unless earlier payment to the Subcontractor is required by any State or Federal law. The Subcontractor must invoice Blattner once per month, within the timeframe allowed when invited by Blattner to invoice. The Subcontractor’s failure to provide insurance, lien waivers, and all other required documentation will result in payments being delayed or withheld by Blattner. Blattner may utilize joint checks to the Subcontractor and its Sub-Tiers if Blattner reasonably believes it is necessary. All payments are subject to reasonable withholding, back charges, and set offs under this Agreement. Payments by Blattner do not release the Subcontractor from any of its obligations under the Agreement.

(b) Retainage. Blattner will withhold **0%** from every payment to the Subcontractor as retainage (“**Retainage**”).

**4. SUB-TIERS.** The Subcontractor must notify Blattner before the Subcontractor subcontracts any part of the Work (including suppliers of incorporated materials with a value of \$10,000) or more to a third party (each a “**Sub-Tier**”) and Blattner has the right to reject any Sub-Tier proposed by the Subcontractor. Every agreement that the Subcontractor executes with a Sub-Tier must contain language incorporating by reference all the obligations and requirements of the Owner Contract and this Agreement. Notwithstanding the foregoing, the Subcontractor is responsible for the acts or omissions of all its Sub-Tiers and remains liable for all the Work provided under this Agreement. The Subcontractor is further responsible for ensuring that each Sub-Tier is properly licensed and in compliance with any other statutory requirements in the state where the Project is located. Before any Sub-Tier may enter the Project Site, the Subcontractor must provide a copy of the Sub-Tier’s insurance certificate which follows Exhibit D. The Subcontractor’s current planned Sub-Tiers are listed in Exhibit A. The Subcontractor must provide Blattner with unconditional, final lien waivers from each Sub-Tier which can be sent to Blattner’s lien waiver inbox.

**5. TAXES.** The Subcontract Price includes all taxes for the Work including a) all applicable sales, use, receipts, income, occupation, or excise taxes including penalties and interest, b) any present or future import duty, federal, state, county, municipal, or other excise or similar taxes, c) all taxes, contributions, interest and penalties under any federal, state, municipal or other governmental or private old age benefit, welfare benefit, social security, pension, annuity or unemployment compensation or insurance law, plan or program now existing or hereafter imposed, and d) all taxes and contributions required to be withheld from or in respect of wages and salaries under any law now existing or hereafter imposed, including interest and penalties. Any changes in tax or duty requirements and any increased costs resulting from such changes are the Subcontractor’s responsibility. The Subcontractor will promptly pay all such taxes, penalties and interest and in no event later than necessary to avoid the imposition of any liens.

**6. PERMITS.** The Subcontractor is responsible for obtaining or assuring all permits that are necessary to perform the Work, unless specifically excluded in Exhibit A.

**7. EQUIPMENT PACKAGING & DOCUMENTATION.** The Subcontract Price includes all equipment that is included in the Work and the Subcontractor is responsible for all packaging and documentation costs for such equipment. The Subcontractor will package and crate all shipments of equipment included in the Work to ensure adequate protection from damage during loading, shipping, hauling, unloading, and storing. All deliveries of chemical products or materials containing chemicals must be accompanied by Safety Data Sheets (“**SDS**”). Copies of the SDS must be provided to the

truck driver for inclusion with other shipping documentation.

**8. DOCUMENTS AND DRAWINGS.** The Subcontractor must provide Blattner with all samples, drawings, schematics, operations and maintenance manuals, schedules and other documentation ("**Subcontractor Documents**") in form and detail as reasonably requested by Blattner, the Owner, or otherwise required under the Owner Contract, if applicable to the Work.

**9. TITLE AND RISK OF LOSS.** The Work must be delivered free and clear of all claims, encumbrances and liens. Title and risk of loss passes to Blattner upon the payment to the Subcontractor of the portion of the Subcontractor Price for such Work; provided that for any equipment supplied as a part of the Work, title and risk of loss of each item of equipment will transfer to Blattner no later than the delivery of such items of equipment to the Project Site. Passage of title does not constitute acceptance of the Work by Blattner and is subject to Section 11.

**10. INTELLECTUAL PROPERTY.** The Subcontractor represents that it has all rights in and to Patents, Trademarks, Copyrights, Know-how and other Confidential or Proprietary Information (collectively known as "**IP Rights**") necessary to perform the Work and for Owner to own, operate, maintain, repair and otherwise use and enjoy the Project without violating the rights of any third party.

(a) Ownership. Any IP Rights developed, prepared, or otherwise provided by the Subcontractor in connection with the performance of the Work will become the property of Blattner upon payment of the applicable portion of the Subcontract Price. The Subcontractor grants to Blattner an irrevocable, non-exclusive, perpetual, transferrable, royalty-free license to use all other IP Rights of the Subcontractor which are used in connection with the Work

(b) IP Indemnity. The Subcontractor will indemnify, defend, and hold harmless Blattner, Owner and their affiliates from and against all Losses and Liabilities (as defined in Section 17) arising out of, or otherwise relating to, any infringement or other violation, or any alleged infringement or other violation, of any third party IP Rights.

**11. QUALITY, INSPECTION AND REPORTING.** The Work (including inspection and testing) must comply with the requirements of the Owner Contract and Blattner's inspection and testing plan for the Project to the reasonable satisfaction of the Owner and Blattner. The Subcontractor will further comply with the quality, inspection, and reporting requirements set forth in Exhibit C. Blattner's review or inspection of the Work (or any related documentation) will not relieve the Subcontractor of any of its obligations or liability under this Agreement.

**12. BACK CHARGES.** If Blattner discovers any defects in the Work or other failures of the Subcontractor under this Agreement, Blattner will notify the Subcontractor and give the Subcontractor a reasonable time to fix the defects or failures. However, if the Subcontractor fails to fix such defects or failures or Blattner otherwise incurs excess costs in inspection, transportation, customs clearance, storage, erection or installation due to the Subcontractor's failure to comply with this Agreement, then Blattner may back charge the Subcontractor for those costs by deducting such costs from the remaining amount owed to the Subcontractor for the Subcontract Price. Notwithstanding the foregoing, if Blattner's construction schedule doesn't allow for advance notification, Blattner may fix such defects itself and back charge the Subcontractor for its costs based on Blattner's actual cost plus a reasonable mark up.

**13. SUBCONTRACTOR RESPONSIBILITIES.**

(a) Safety. Any person that enters the Project Site must abide by the Project Site Safety Rules set forth in Exhibit B. This includes any of the Subcontractor's (and any Sub-Tier's) employees, representatives, and other persons under their direction or control. Notwithstanding the foregoing, the Subcontractor is exclusively responsible for the safety of all such persons.

(b) Project Site. The Subcontractor must help keep the Project Site in a neat and clean condition by regularly removing rubbish caused by the Subcontractor's Work. The Subcontractor (and any Sub-Tier) will remove any objectionable personnel from the Project Site upon receipt of a written notice from Blattner. Once the Work is completed, the

Subcontractor will promptly remove all of its labor, equipment, and materials from the Project Site.

(c) Cooperation. Subcontractor's (and any Sub-Tier's) employees, representatives, and other persons under their direction and control must reasonably cooperate with all others working on the Project Site. The Subcontractor will not begin the Work in any area of the Project Site without first obtaining Blattner's written permission to proceed in that area. The Subcontractor will respond to requests for information from Blattner within five business days unless a shorter response time is reasonably requested by Blattner. Subcontractor agrees to comply with reasonable requests of Blattner, Owner, Project lender and/or the title company in connection with the subordination of all liens and other rights and claims to liens regarding any or all the Work, the Project, or to any liens granted in favor of any Project lender. This may include the execution and delivery of subordination agreements, affidavits, or other documents that may be required to demonstrate that Owner's property and premises are free from liens arising out of the furnishing of Work under this Agreement.

(d) Communication. The Subcontractor is prohibited from communicating directly with the Owner unless Blattner has approved such communication and is present during any such communication.

(e) Independent Contractor. The Subcontractor is an independent contractor and is responsible for performing the Work efficiently, properly, promptly, and with adequate supervision, and in accordance with the Owner Contract and this Agreement. The Subcontractor will have exclusive responsibility for the means, methods, techniques, and procedures for performing the Work in compliance with the Project Site Safety Rules. The advice, recommendations or assistance of the Owner or Blattner does not relieve the Subcontractor from responsibility for such Work as an independent contractor.

(f) Labor Relations. The Subcontractor must comply with all labor agreements applicable to the Project (if any). If a strike or Work stoppage involving or affecting the labor employed by the Subcontractor or any of its Sub-Tiers, Blattner has the right to terminate this Agreement. Upon request by Blattner, the Subcontractor will provide payroll and other subcontractor project information as permitted by applicable law and as reasonably necessary to allow Blattner to verify that the Subcontractor does not have any unpaid wage, fringe, or other benefit payment or contributions related to the Work.

**14. CHANGE ORDERS.** Each Party may request a change to the Work or this Agreement by submitting a written change order ("**Change Order**") to the other Party. To be effective, any Change Order must be in writing and signed by both parties.

(a) Blattner Changes. Blattner may require additions, deletions, or other reasonable changes to the Work.

(b) Subcontractor Change. For any request for additional time or money, the Subcontractor must submit to Blattner a proposed Change Order with sufficient information to allow Blattner to request a corresponding extension of time or increased cost under the Owner Contract and must include, at a minimum, the following:

- (i) The change in the scope of the Work and/or specifications requiring the Change Order;
- (ii) The quantity and unit price of any materials that will be needed to complete the Work included in the Change Order;
- (iii) The total number of hours and rates for any labor that will be needed to complete the Work included in the Change Order;
- (iv) The total number of days (if any) of additional time that will be needed to complete the Work included in the Change Order.

(c) Timing. The Subcontractor must notify Blattner within three days of becoming aware of any potential change and must submit any proposed Change Order within five days (or such shorter time as provided in the Owner Contract) or providing such notice to Blattner.

(d) Limitation. If the Subcontractor fails to comply with the requirements in this Section, the Subcontractor has waived its rights to make a claim for an extension of time or increase in the Subcontract Price. In addition, the Subcontractor is only entitled to an extension of time or increase in the Subcontract Price to the extent Blattner obtains such relief from the Owner under the terms of the Owner Contract.

**15. FORCE MAJEURE.** Neither party will be liable to the other for failure to perform its obligations under this Agreement caused by a Force Majeure event to the extent Blattner is entitled to similar relief under the Owner Contract.

**16. INSURANCE.** The Subcontractor (and any Sub-Tier's) agrees to procure and carry the insurance coverage, limits, and endorsements in Exhibit D until expiration of the warranty period under this Agreement.

**17. INDEMNITY.** Blattner and the Subcontractor (each an "**Indemnitor**") will defend, indemnify, and hold harmless the other ("**Indemnitee**") from and against all claims, encumbrances, liens, damages, losses, and liabilities ("**Losses and Liabilities**"), but only to the extent caused by the negligent acts, omission, or intentional misconduct of the Indemnitor, its employees, any sub-tier, or anyone that it controls or exercises control over (excluding the Indemnitee). If the Losses and Liabilities are caused by the parties' joint or contributory negligence, the expense of the Losses and Liabilities will be shared by each party in proportion to its degree of negligence.

An Indemnitee must promptly notify the Indemnitor in writing of any Losses and Liabilities. The Indemnitor will assume the defense against such Losses and Liabilities at Indemnitor's expense with counsel reasonably satisfactory to the Indemnitee. If the Indemnitor fails to perform in accordance with this Section, the Indemnitee may obtain its own counsel and Indemnitor will be responsible for reimbursing all the Indemnitee's reasonable costs plus interest.

**18. WARRANTY.**

(a) Warranties. The Subcontractor warrants that for a period of 24 months after the Project substantial completion date under the Owner Contract ("**Warranty Period**"), the Work was (i) provided in conformance with all specifications and other descriptions and requirements set forth in this Agreement; (ii) performed in accordance with standards of care, skill, and diligence consistent with prudent industry practices, procedures, and techniques; (iii) delivered to Blattner free from faulty design (to the extent of the Subcontractor's design responsibilities); (iv) constructed utilizing new materials and equipment free from faults and defects and of sufficient size, capability, and materials to meet in all respects the requirements and operating conditions specified in this Agreement; (v) in conformance with applicable laws, regulations and codes; and (vi) conveyed with free and clear title. The Subcontractor further warrants that neither the Work nor Owner's ownership, operation or use of the IP Rights infringes or otherwise violates, or constitutes a misappropriation of, any third party's intellectual property. The Subcontractor further warrants that the Work will not adversely impact or impair the performance specifications and warranties for any other work being provided by Blattner (or its other subcontractors and suppliers) under the Owner Contract.

(b) Repairs. Blattner will notify the Subcontractor if the Work fails to meet the warranty standards set forth in this Section during the Warranty Period. The Subcontractor must begin to repair or replace the defective Work within five business days of receiving a notice from Blattner and complete the repair or replacement to the reasonable satisfaction of Blattner within a reasonable period, all at the Subcontractor's sole expense (including all labor and transportation costs). The Subcontractor will bear the risk of loss and damage for the Work being repaired or replaced. The Warranty Period for repaired or replaced Work will be 12 months or the remainder of the original Warranty Period, whichever is longer.

(c) Remedies. If the Subcontractor fails to fulfill its warranty obligations, Blattner may take action to repair or replace the defective Work and charge the cost for such action to the Subcontractor. Such actions by Blattner will not in any way relieve the Subcontractor of its warranty obligations, including on that Work which is repaired or replaced by Blattner.

(d) Transferability. Blattner may assign the Warranty at any time to the Owner in accordance with the requirements of the Owner Contract.



**19. RECOVERY PLAN.** In addition to all other available remedies, if Blattner reasonably determines that the Subcontractor is in danger of failing to timely perform the Work by the dates in Exhibit A, Blattner may provide written notice of its determination to the Subcontractor. In addition, upon receipt of such notice, the Subcontractor will promptly submit a recovery plan to Blattner for its review and approval. Blattner's approval of the Subcontractor's recovery plan will not relieve the Subcontractor of any of its obligations under this Agreement or provide the basis for an increase in the Subcontract Price. The Subcontractor is responsible for all costs associated with implementing the approved recovery plan, including any additional costs incurred by Blattner. Notwithstanding the foregoing, failure to timely perform the Work due to lack of required PPE stated in Exhibit B, the Work fails to comply with the quality standards in Exhibit C, and rework affects the dates in Exhibit A, this section applies.

**20. DEFAULTS AND REMEDIES.**

(a) Subcontractor Event of Default. The occurrence of any one or more of the following constitute an event of default by the Subcontractor ("**Subcontractor Event of Default**"):

- (i) The Subcontractor files a petition in re-organization or such a petition is filed against the Subcontractor;
- (ii) The Subcontractor becomes insolvent or makes an assignment for the benefit of creditors or files for bankruptcy protection;
- (iii) The Subcontractor fails to provide a recovery plan in accordance with Section 19;
- (iv) The Subcontractor fails to provide materials of the quality and by the dates required by this Agreement;
- (v) The Subcontractor fails to provide qualified workers and equipment necessary to perform the Work in accordance with this Agreement or otherwise abandons the Work;
- (vi) The Subcontractor or its Sub-Tiers fail to maintain all licenses required by applicable law to perform the Work;
- (vii) The Subcontractor fails to perform any other obligation required by this Agreement or the Owner Contract.

(b) Blattner's Rights and Remedies. Upon the occurrence of a Subcontractor Event of Default, Blattner will have the following rights and remedies:

- (i) Blattner may terminate this Agreement upon three days written notice to the Subcontractor;
- (ii) Blattner may suspend the Work immediately upon notice of such suspension to the Subcontractor;
- (iii) Blattner may obtain or employ such materials, supplies, equipment or labor and make such other expenditures as may be necessary to complete the Work;
- (iv) Blattner may take possession of all materials, supplies, equipment, tools, equipment and facilities of the Subcontractor necessary to complete the Work at the Subcontractor's sole cost and expense;
- (v) Pursue Dispute Resolution under Section 28.

The Subcontractor is liable for all damages, fees, costs and expense incurred by Blattner as a result of the Subcontractor Event of Default and Blattner may offset its costs and expenses against sums otherwise due to the Subcontractor. In addition, Blattner may recover its fees, costs, and expenses (including reasonably attorneys' fees) from the Subcontractor which may exceed the Subcontract Price. Blattner's rights and remedies listed above are in addition to all other available rights and remedies available to Blattner at law or in equity.

**21. TERMINATION FOR CONVENIENCE.** Blattner may terminate this Agreement for its convenience by providing written notice to the Subcontractor, and the Subcontractor must immediately cease all work under this Agreement. The Subcontractor will then be entitled to payment of the following: a) the portion of the Subcontract Price that is applicable to the Work completed up to the date of termination that has not already been paid to the Subcontractor, b) actual, substantiated, and reasonable direct demobilization costs incurred by the Subcontractor, and c) the actual expenses reasonably incurred by the Subcontractor for uncompleted Work (less a credit for items the Subcontractor retains for sale). The Subcontractor is not entitled to any anticipated profits. Blattner's maximum liability under this Section will not

exceed the lesser of the remaining amount of the Subcontract Price due as of the date of termination.

**22. SCHEDULE.** Time is of the essence in this Agreement. The Subcontractor must complete the Work in accordance with the schedule included in Exhibit A. If there is no schedule included in Exhibit A, the Subcontractor must complete the Work as Blattner may reasonably direct to allow Blattner to complete its obligations under the Owner Contract.

**23. LIQUIDATED DAMAGES.** If the Subcontractor fails to timely complete the Work, it will be impossible to accurately determine or estimate the actual damages Blattner will sustain. Therefore the parties agree that the Subcontractor will pay Blattner the liquidated damages amount set forth in the Owner Contract unless a specific amount is identified in Exhibit A, and that this amount represents complete compensation for Blattner's damages.

**24. NO CONSEQUENTIAL DAMAGES.** Except as set forth below, neither party will be responsible or held liable for any consequential, special, or incidental losses or damages. This exclusion does not apply to either party's indemnification obligations or liquidated damages payable by the Subcontractor under this Agreement.

**25. LIMITATION OF LIABILITY.** Each party's maximum liability to the other party for damages under this Agreement, regardless of the theory of liability, including but not limited to, any contract or tort damages, is limited to 200% of the Subcontract Price; however, this limitation does not apply to: a) gross negligence, willful misconduct, fraud, or illegal acts; b) breach of the confidentiality provisions of this Agreement; c) amounts recoverable from applicable insurance policies; or d) a party's indemnification obligations under this Agreement.

**26. ASSIGNMENT.** Neither party may assign or transfer any of its rights or obligations to any third party without the prior written consent of the other party; however, Blattner is entitled to assign this Agreement to the Owner and any of its finance parties in accordance with the Owner Contract. Any attempt to make a prohibited assignment will be void and without effect. This Agreement will be binding upon, and may be enforced by, the parties and their successors and permitted assigns.

**27. CONFIDENTIALITY.** Both Parties agree to treat as confidential the information provided by, or on behalf of, the other Party that would reasonably be considered confidential or proprietary. The Parties agree that they will only use such information to perform their obligations under this Agreement. Both Parties will use the same degree of care to protect the other Party's confidential information as it does its own. When this Agreement is terminated or completed, both Parties will return all of the other Party's confidential information, if requested by the disclosing Party. The Subcontractor specifically agrees that it will not use or allow others to use such information without Blattner's prior written consent. In addition, the Subcontractor will not make any public announcements concerning this Agreement, the Project, the Work, or the Owner Contract without Blattner's prior written consent.

**28. DISPUTE RESOLUTION.** In the event of any controversy, claim or dispute between the parties related to this Agreement, or the alleged breach, termination, or invalidity hereof ("**Dispute**"), each party will appoint a representative (together, the "**Parties' Representatives**") within three business days following the delivery of a Dispute notice by either party. The Parties' Representatives will then meet, negotiate, and attempt in good faith to resolve the Dispute quickly, informally, and inexpensively. The parties will comply with the dispute resolution requirements of the Owner Contract in any Dispute and will exhaust their remedies available under the Owner Contract. Unless the Owner Contract requires otherwise, if the Parties' Representatives cannot resolve the Dispute within 30 days, then either party may pursue any other remedies available at law or in equity in accordance with Section 30.

**29. CUMULATIVE REMEDIES.** The parties agree that all remedies outlined in this Agreement are cumulative and in addition to other remedies at law or in equity. No waiver or failure to act by any party will prevent that party from later exercising their rights.

**30. GOVERNING LAW; VENUE.** This Agreement will be governed by the laws of the State of Minnesota, unless otherwise required by the Owner Contract. The parties agree that any suit, action, or other legal proceeding by or against any party

related to this Agreement will be brought in the federal courts of the United States or the courts of the State of Minnesota sitting in Hennepin County, Minnesota. EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT IT MAY NOW OR HEREAFTER HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS OR ACTIONS OF THE PARTIES.

**31. COMPLIANCE WITH LAWS.** The parties agree to comply with all applicable laws and regulations.

**32. SEVERABILITY.** If any provision of this Agreement is held invalid, illegal, or unenforceable, the remaining provisions will not be affected or impaired. A court may modify the invalid, illegal, or unenforceable provision to reflect the parties' original intent.

**33. SURVIVAL.** The provisions of Sections 16, 17, 18, and 27 will survive the expiration or other termination of this Agreement.

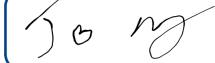
**34. MUTUAL DRAFTING.** Both Parties have participated in the drafting of this Agreement and agree that this Agreement is the result of extensive negotiations between the Parties.

**35. COMPLETE UNDERSTANDING.** All exhibits to this Agreement and the Owner Contract are incorporated by reference and represent the entire agreement between the parties. The Subcontractor agrees to be bound to Blattner to the extent Blattner is bound to the Owner under the Owner Contract. The parties agree that the Owner and any of its finance parties are third party beneficiaries of this Agreement, and are entitled to enforce this Agreement against the Subcontractor as permitted under the Owner Contract.

**36. COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original.

**EXCEL AIRCRAFT, LLC**

DocuSigned by:



5CD0625A3E22448...

Signature

Wayne Adams


Type or Print Name

CEO

Title

**BLATTNER ENERGY, LLC**

DocuSigned by:



087083215016426...

Signature

Dennis J. O'Mara

Type or Print Name

Director of Construction

Title

DS  




**EXHIBIT A****1. SCOPE OF WORK.****Description: Collection Trenching**

1. Subcontractor will provide trenchers sized to handle the site conditions and maintain the required daily footage, operators and spotters to trench.
2. Subcontractor is responsible for locating and uncovering of all buried utilities, and any pipelines, Subcontractor is responsible for any damage of any kind or type of utilities or property.
3. Blattner will prepare all ROW to operate equipment in a safe and suitable manner.
4. Equipment will not be tracked for more than one-mile due to excess wear on undercarriage.
5. Subcontractor is not responsible for ditch cave-ins of any kind.
6. Depth of trench will be a minimum of 48", maximum of 54".
7. Width of the ditch will be a minimum of 28" wide.
8. Price includes Mobilization/De-mobilization and move arounds.
9. Extra depth charge of \$0.90 per vertical foot.
10. Pricing for Zones 1, 2 and 3 of \$3.40 per lineal foot.
11. Pricing for zones 4, 5, 6 and 7 of \$3.55 per lineal foot.

The Subcontract Price consists of the following:

Cost Code	Work Code	Item No	Description	QTY	Unit Price	UOM	Amount
3550	361114	1	Collection Trenching - Zone 1	405,842.00	\$3.40	LF	\$1,379,862.80
3550	361114	2	Met Tower Collection Trenching zone 1	3,000.00	\$3.40	LF	\$10,200.00
3550	361114	3	Collection Trenching - Zone 2	389,366	\$3.40	LF	\$1,323,844.40
3550	361114	4	Met Tower Collection Trenching zone 2	3,000	\$3.40	LF	\$10,200.00
3550	361114	5	Collection Trenching - Zone 3	316,779	\$3.40	LF	\$1,077,048.60
3550	361114	6	Collection Trenching - Zone 4	264,001	\$3.55	LF	\$937,203.55
3550	361114	7	Collection Trenching - Zone 5	465,816	\$3.55	LF	\$1,653,646.80
3550	361114	8	Collection Trenching - Zone 6	497,315.00	\$3.55	LF	\$1,765,468.25
3550	361114	9	Collection Trenching - Zone 7	423,186.00	\$3.55	LF	\$1,502,310.30
Applicable Taxes are included in the Subcontract Price to be paid to the Subcontractor under this Agreement				<b>Total</b>	<b>Amount:</b>		<b>\$9,659,784.70</b>

**2. LIST OF SUB-TIERS.**

<u>Type of Work</u>	<u>Sub-Tier Name (if known)</u>	<u>Estimated Start Date</u>
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N/A		

### 3. SPECIAL CONDITIONS.

#### 1. **Subcontractors Schedule:**

- a. Subcontractor will provide a detailed schedule within two weeks of Work acceptance. The schedule will be updated and submitted to Blattner on a weekly basis in a commercially reasonable file format.
- b. Start date: 1/1/2024
  - i. Zone 1 – April 20, 2024
  - ii. Zone 2 - July 15, 2024
  - iii. Zone 3 - October 10, 2024
  - iv. Zone 4 - January 1, 2025
  - v. Zone 5 – April 1, 2025
  - vi. Zone 6 – July 1, 2025
  - vii. Zone 7 – September 15, 2024
- c. Completion date: 1/30/2026

#### 2. **Prior to performing the Work:**

- a. Subcontractor is required to attend the subcontractor alignment meeting.
- b. Subcontractor will prepare and provide a Standard Operation Procedure to include any and all project field operations. Subcontractor may request instructional formats, if needed. The Subcontractor will facilitate and present the Subcontractor's Standard Operation Procedure at the Subcontractor's initial alignment meeting.
- c. Subcontractors will provide Standard Operating Procedures to Blattner Site Supervisor for review at kickoff.

#### 3. **During the Project:**

- a. Subcontractor is subject to receive and participate in process observations.
- b. Subcontractor will provide Standard Operation Procedure to Blattner Site Supervisor during and for the process observation.
- c. Subcontractor may receive feedback from Blattner Site Supervisor during the process observation. However, is not deemed Work operation direction from Blattner.
- d. Subcontractor will participate in daily project communication meetings.
- e. In the event any Safety or Quality event occurs in relation to the Subcontractors Work on the Project Site, the Subcontractor will fully participate in Blattner's investigation and action planning associated to that event.

#### 4. **Subcontractor will participate in the post project review meeting with Blattner's Project Manager.**

#### 5. **Liquidated Damages:** Per Owner Contract.

6. Unit Prices in the Subcontract Price above will remain the same for the entire duration of the Project; additional quantities will be added with change orders at the same unit price.
7. Quantities included are an estimate; Subcontractor only paid for actual work completed.
8. **Safety:** Subcontractor will submit all employee near misses, first aids, and recordables to Blattner in a timely manner.
9. Subcontractor will report any safety incidents to Blattner immediately. Subcontractor will stop work until given direction to continue.
10. Subcontractor will participate in safety meetings and complete at least one daily DFO prior to start of shift. Subcontractor will abide by Blattner Safety policies. All employees will go through on-site orientation.
11. **Environmental:** Subcontractor will follow all New Mexico and Owner requirements in its work methods to keep Blattner in compliance. Subcontractor will make every reasonable attempt to protect SWPPP controls installed on project. Subcontractor will also respect cultural and environmental areas per project specifications. Subcontractor will report all spills to Blattner's environmental manager.

12. **Change Orders:** Subcontractor will only be allowed to provide a change order in regard to quantity changes or agreed to change of work scope by Blattner. Each zone will have a change order provided prior to the start of work defining the quantity and cost for each zones work.
13. Final designs will be provided at the alignment meeting prior to the start of work on each respective zone, numbers 1 through 7.
14. Subcontractor will barricade all open trenches at the end of each day.
15. Subcontractor to provide all necessary equipment and crews to complete work including Onsite Supervisor, operators, spotters, mechanics as needed. Subcontractor will provide fuel, maintenance, and all parts/materials needed for their machines.
16. Subcontractor is responsible for all service and repairs to Subcontractor vehicles. Repairs must be made by the start of the next shift, if not possible, replacement vehicle will be provided by Subcontractor at no charge to Blattner.
17. Subcontractor shall conform to all permits and environmental regulations or policies associated with the Project.
18. Blattner or Owner will not be responsible for costs associated with citations incurred by Subcontractor.
19. Trench depth will be a minimum of 48" and maximum 54", that's clean. Any trench less than 48" depth will be redone at Subcontractor's cost.
20. Subcontractor shall average 7,000 feet of trench per day.. If the schedule is not manatained, Subcontractor will bring in additional equipment.
21. Subcontractor has assumed all risk for rock sawing and trenching with the SOV price.
22. Blattner is responsible to prepare ROW for Subcontractor.
23. Mobilization is all inclusive and includes demobilization. Additional mobilizations and demobilizations may be required but will be at the agreed upon price. Subcontractor will not mobilize unless approved by Blattner. Moving equipment around the project area to perform the work is included in the unit pricing of work.
24. If applicable, Non-Taxable Transaction Certificates will be provided.
25. Subcontractor is responsible to complete necessary One-Call utility locates. Blattner will issue dig-permits prior to any equipment penetrating the ground, giving clearance for Subcontractor to trench.
26. Subcontractor is responsible for accurate GPS recording of "As-Built" MV trench file that will be transmitted electronically in .DXF format to Blattner upon completion.
27. Subcontractor will provide trench reports each evening.
28. Subcontractor will report and repair any waterline or utility line damages so they can be documented and repairs verified as completed
29. Trenchers will trench as close as reasonably possible to box pads, j-boxes, bore pits.
30. Blattner will not be responsible for any weather delays or weekend, or overtime rates to complete work.
31. All Subcontractor management/supervisors to have in possession current First Aid cards, AED certification and CPR training. Spill kits are required in all vehicles and equipment as well as 5# fire extinguishers in case of a fire. The fire extinguishers are a State of New Mexico requirement on all BLM lands.
32. Firearms are prohibited on site.
33. Subcontractor will meet or exceed OSHA requirements.
34. Subcontractor is required to clean up any spills from equipment used.
35. Subcontractor vehicles must obey on-site speed limits.
36. Subcontractor must stay on required roads as designated by Blattner Field Personnel to avoid fines payable by Subcontractor.
37. Subcontractor is responsible to clean up any trash it produces and properly dispose of it.
38. Subcontractor to check in with site personnel daily upon arrival.
39. Subcontractor will provide daily work plans and provide daily production rates. If the Subcontractor falls behind the trenching operations by 5 shifts the Subcontractor will provide a recovery plan to Blattner to facilitate recovery to schedule.
40. Subcontractor to submit daily logs at the end of every shift or at the end of a weekend shift to Blattner field personnel for review and tracking. Falsifying daily log reports is grounds for immediate Subcontractor employee dismissal from the jobsite. Subcontractor will provide replacement employee without missed time.

41. Subcontractor will be responsible for travel time to site; hours begin when Subcontractor driver arrives at site and/or at start of scheduled shift.

42. Hourly Wages

- a. Subcontractor shall use commercially reasonable efforts to ensure that all employees or individuals hired by Subcontractor, and all employees or individuals hired its Sub-Tier Subcontractors of any tier, performing Work at the Project Site are paid Hourly Wages (as defined below) which total an amount which is at least equivalent to the applicable Base Rates included in the Type "H" Heavy Engineering Construction prevailing wage rate table published by the New Mexico Department of Workforce Solutions effective as of January 1, 2023, and as may be updated as of January 1, 2024, and January 1, 2025, and January 1, 2026 (the "**Base Rates**"). The term "**Hourly Wages**" includes all standard hourly rate of pay plus any additional amounts paid, including but not limited to per diem, benefits or cash payment in lieu of benefits, and any bonus payments. Any amounts paid to employees which are not made on a purely hourly basis shall be divided and allocated proportionately among the hours worked for the respective employee during the pay period in which the employee was paid.
- b. Subcontractor shall provide a complete and accurate payroll report on a monthly basis using the form attached here to as EXHIBIT E (the "**Payroll Report**") which includes the wages paid to each of employees or other individuals hired by Subcontractor or its Sub-Tier Subcontractors (of any tier) for the purpose of demonstrating compliance with the Hourly Wages requirements set forth above. The Payroll Reports must be delivered on or before the 5th day of each month with respect to the wages paid to all employees for the preceding month (the "**Reporting Period**") to Blattner in an electronic form as directed by Blattner. Subcontractor and its Sub-Tier Subcontractors must also deliver to Blattner an executed copy of each completed Payroll Report in a manner reasonably directed by Blattner.
- c. Subcontractor shall cooperate with Blattner and Owner (and their respective consultants, if any) to allow the consultants and/or a third-party auditor to access applicable Hourly Wage records of Subcontractor or its Sub-Tier Subcontractors (subject to redactions of personally identifiable information and other reasonable redactions) for the purpose of preparing a report which (i) confirms Subcontractor's compliance with subsections a and b to Special Condition 42, and (ii) includes the highest and the lowest annual Hourly Wages paid to such workers in each such trade classification.
- d. Subcontractor's delivery to Blattner of the Payroll Reports is a requirement for payment of amounts owed under an invoice submitted pertaining to the respective Reporting Period. Blattner is entitled to withhold payment until Subcontractor provides the relevant Payroll Report(s). If Subcontractor or its Sub-Tier Subcontractors fail to pay any of their employees as required hereunder, Blattner is entitled to withhold payment in an amount equal to 200% of the wages which should have been paid to such employees until Subcontractor provides evidence of the additional payment(s) to such employees of the difference between what was paid and what should have been paid. Blattner's right to withhold payment as provided above is in addition to Blattner's other remedies under this Agreement. In addition to Subcontractor's obligations under Section 17, Subcontractor will indemnify and hold harmless Blattner for any Cure Payments and related direct costs related to Subcontractor's failure to comply with its obligations hereunder.
- e. Blattner in its sole discretion may direct Subcontractor, pursuant to a Change Order or Amendment, to replace the requirement that Subcontractor use *commercially reasonable efforts* under subsection a to Special Condition 42 above to *definitively ensure* that all employees or individuals hired by Subcontractor or its Sub-Tiers performing work at the Project Site are paid Hourly Wages which total an amount which is at least equivalent to the applicable Base Rates, then Subcontractor shall be entitled to a one-time payment of \$542,500.00 .

**EXHIBIT B**  
**HEALTH AND SAFETY REQUIREMENTS**

**“NEVER COMPROMISE SAFETY”**

This document (“Health and Safety Requirements”) sets forth Blattner’s health and safety requirements applicable to all Subcontractors (any subcontractor, vendor, engineer, or supplier of equipment or services in connection with the performance of the Work).

1. Subcontractor is required develop, maintain, and implement policies, procedures, and rules (the “Subcontractor Safety Policy”) which govern the conduct, work process, and behavior of Subcontractor’s employees and agents, subcontractors or suppliers of any tier, engaged in performing its work (“Work”) on any Blattner project site (“Project Site”).
2. Subcontractor is also required to supplement its Subcontractor Safety Policy to accommodate all of Blattner’s Health and Safety Requirements identified herein including the relevant Site-Specific Safety Handbook (as defined below).
3. Subcontractor must have a physical copy of the Subcontractor Safety Policy and all other relevant, applicable policy manuals available on the Project Site.
4. Without limiting Subcontractor’s sole responsibility to develop, maintain, and implement its policies, Subcontractor must provide its Subcontractor Safety Policy to Blattner Safety Department for review prior to commencing any Work at a Project Site. Subcontractor will consider and include all Blattner commercially reasonable comments or suggestions.
5. Although Subcontractor is required to abide by, and incorporate into its policies, Blattner’s Health and Safety Requirements, Subcontractor is solely responsible for ensuring that the Subcontractor Safety Policy is appropriate and adequate with respect to the Work and the conditions under which the Work is to be performed.

Subcontractor will be deemed in default if Subcontractor or its agents, subcontractors or suppliers of any tier, or employees are not in compliance with the Subcontractor Safety Policy, Blattner’s Health and Safety Requirements, or site-specific rules. In addition to remedies under the Subcontract Agreement for default, Blattner may pursue the following measures: (1) directly contact Subcontractor’s management and demand a remediation plan; (2) demand that Subcontractor stop work; (3) remove Subcontractor or its employees or agents, subcontractors or suppliers of any tier, from the Project Site; (3) withhold payment; or (4) take other measures commensurate to the infraction which are otherwise available to Blattner under the applicable Subcontract Agreement or at law.

**All Subcontractor’s employees and agents, subcontractors or suppliers of any tier, must use proper Personal Protective Equipment (“PPE”) on every Project Site. All of Subcontractor’s employees and agents, subcontractors or suppliers of any tier, must have the following PPE at the time of arriving at the Project Site.**

**The following PPE is required while working or touring onsite.**

1. Seat Belts and Hard Hats in Vehicles and equipment for driver and all passengers.
2. Seat belts are not required for crane operators while in the crane cab.
3. Safety Glasses
4. Hard Hats
5. Any person who wears prescription eyeglasses and does not have ANSI Z –87 prescription safety glasses must wear goggles over their glasses.
6. Climbing helmets shall be worn for all in tower work. See Safety Plan for type.
7. Safety-toe Boots That Are:
  - a. In Functional Condition and Free of Excessive Wear
  - b. Designed for an Outdoor Environment, Per ASTM F2413-18
  - c. Designed with ankle support (No Tennis Shoe Style)
  - d. Composite or carbon fiber toe. Steel toe boots are not permitted

8. Appropriate work clothing consisting of long pants and shirts must be worn by all persons working on, touring, or visiting the Project Site.
  - a. Long pants should be made of such sturdy material as denim or woven heavy cotton.
  - b. Shirts with at least 4" sleeves.
9. Other personal protective equipment must be worn when the job task or conditions require. Examples include hearing protection, task specific gloves, respiratory protection, and personal fall protection equipment.

**The following are minimum Project Site Safety requirements in addition to the required PPE.**

1. All safety, fall protection, lifting/rigging equipment, and power tools must be inspected regularly by a competent person. Defective equipment must not be used and must be replaced immediately.
2. Posted speed limits must be followed. Travel on approved travel routes (provided by Blattner Site Safety) only.
  - a. Subcontractor is responsible for any fines or fees resulting from use of unapproved travel routes.
  - b. Subcontractor is responsible for cattle management/crop damage/property damage for areas outside of the designated right of way.
3. Riding in the back of pickup trucks for transportation purposes is expressly prohibited.
4. Unless prohibited by Project Owner, smoking on the Project Site may only be permitted in designated areas. Check with your Project Site Safety Coordinator for information regarding smoking.
  - a. If allowed, smoking must always be away from office doors, and not in cabs of vehicles or equipment without consent of all passengers.
  - b. Cigarette butts must be placed in an appropriate container and not on the Project Site.
  - c. There will be NO smoking in any office trailers. Modifications may be made to this policy only to the extent that such modifications relate to local law, direction from Owner, or fire hazards, (e.g. It is possible that smoking is prohibited outside of enclosed areas due to a particular fire danger). If the policy of the project's owner or developer is more stringent, such policy overrules this Blattner policy.
5. Possession and/or use of illegal drugs, drug paraphernalia, alcohol, explosives, and firearms (including ammunition) are expressly prohibited, to the extent such prohibition is permitted by the applicable state law of the Project Site.
6. All employees must be properly trained before operating machinery or equipment. Training includes understanding and verification of Blattner's equipment travel checklist and dig permits.
7. All accidents, equipment damage and near misses with the "One-Shot" designation, injuries, first aid administered, and near misses must be reported to the Blattner site safety coordinator, management, and trade supervisor onsite. The Subcontractor and its senior management will be included in the investigation and subsequent incident review meetings if Blattner deems, in its sole discretion, that they are directly involved in the incident.
  - a. Subcontractor shall report incidents immediately upon occurrence and during the work shift when they occur.
  - b. Preliminary reports are due to Blattner within 24 hours.
  - c. If the incident is considered a "serious incident" by Blattner, Subcontractor will be required to shut down the associated task(s) and complete a Root Cause Analysis, using methodology such as "Tap Root", to identify root causes and corrective actions.
  - d. Subcontractor shall complete a Root Cause Analysis report to clearly define the cause of the accident/injury and methods for prevention of re-occurrence before work can resume, if requested by Blattner.
8. All employees and agents, subcontractors or suppliers of any tier, of Subcontractor must know the correct emergency procedure to be followed in the event of an accident or emergency.
9. All employees and agents, subcontractors or suppliers of any tier, of Subcontractor must familiarize themselves with the location of fire extinguishers in the surrounding work areas.
10. No horseplay, fighting or careless acts will be tolerated on the Project Site.
11. Blattner must be permitted to orient all employees and subcontractors prior to working on the Project Site.
  - a. Subcontractors must ensure all their employees, agents, subcontractors or suppliers of any tier, and visitors attend the Project Site specific orientation before engaging any Work or touring the Project Site. No exceptions!
  - b. Subcontractor shall provide all records of training and certifications prior to starting any Work.
12. No open-faced knives are allowed on any Blattner Project. Open blade knives and box cutters are not allowed to be used for work purpose on Blattner projects, including work done by Subcontractors. This includes knives resembling



the aforementioned. In place of open blade knives, safety knives and cutters must be used. These knives and cutters must include safety features such as blade guards to prevent accidental cuts.

- 13.** Subcontractor and its employees and agents, subcontractors or suppliers of any tier, including its sub-tiers and delivery personnel, are bound by these Blattner Health and Safety Requirements as a condition of being on the Project Site.
- 14.** Subcontractor must be onsite at all times if a sub-tier is working.
- 15.** Subcontractor must ensure that a competent supervisor is on site during all times when Subcontractor is working.
- 16.** All onsite supervisors and field employees or agents, subcontractors or suppliers of any tier, of Subcontractor must cooperate with the following:
  - a. Participate in weekly All Hands Safety meetings.
  - b. Participate in pre-construction meetings
  - c. Participate in safety meetings
  - d. Subcontractor supervisors must attend the morning Blattner POD meetings to the discretion of the Blattner Site Management Team.
  - e. Conduct daily JHA discussions with field employees before undertaking any Work.
    - o Implement and follow a Job Hazard Analysis (JHA) Program.
    - o Subcontractor must discuss Hazard Identification during their morning JHA meetings and should be reflected on all JHAs.
    - o The JHA program consists of the onsite personnel identifying hazards associated with the task that will be performed during the course of the project.
    - o Then identifying the actions that need to be taken to eliminate the hazards identified.
    - o An accompanying form is then filled out and signed by all employees involved with the task and returned to Blattner on a daily basis.
- 17.** Subcontractor must participate in Blattner and Owner safety programs including, STKY and Daily Field Observations. Crew safety training is available when requested at no extra cost.
- 18.** The site-specific orientation which includes Hazard Identification Tool (HIT) training is mandatory for all employees before any work is completed in the field.
- 19.** All onsite tools and equipment must be appropriate for the task, inspected, and maintained in a safe working condition.
- 20.** Subcontractor must retain and complete daily equipment walk around inspection forms.
- 21.** Blattner reserves the right to conduct safety inspections of internal safety reviews, inspections, and competency verifications.
- 22.** If Telemetric information is available, it will be given to Blattner within (3) days of the incident. Preliminary report is due to Blattner within 24 hours.
- 23.** Subcontractor must provide appropriate conduct warnings to employees or agents, subcontractors or suppliers of any tier, who violate internal safe-work or site-specific safety rules. If indicated or if such employee or agent poses a risk to property or safety, Subcontractor must remove such employee or agent from the Project Site.
- 24.** All of Subcontractor's onsite employees must have received required training for their specific tasks.
- 25.** Unless prohibited by state statute or union contracts, Subcontractors must have a drug and alcohol testing process, including pre-hire, random, reasonable suspicion, and post incident testing.
- 26.** All ladders must be tied off and extend at least three (3) feet above the work platform.
- 27.** Subcontractor is responsible for avoiding products and materials that contain carcinogens, volatile organic compounds and other known toxins. Subcontractor must submit to Blattner all Material Data Safety Sheets on all products/materials prior to construction.
- 28.** Subcontractor to ensure that equipment is reasonably cleaned after each use in appropriate areas. For safety reasons, equipment must be turned off and tagged out during cleaning and maintenance or servicing process.
- 29.** Subcontractor is responsible for any One Call /utility locates that are necessary for their Scope of Work.
- 30.** Subcontractor shall be responsible to obtain and maintain all One Call requests and notifications for their Scope of Work prior to and during ground disturbing activities.
- 31.** Subcontractor must follow Blattner's established dig permit process.
  - a. Subcontractor will contact and notify Blattner prior to any work on or near underground utilities.

- b. Subcontractor will complete a dig permit through Blattner prior to any ground penetrating occurs using the Blattner Mobile process.
  - c. Subcontractor shall complete dig permit request through the Blattner Mobile process 48 hours prior proposed work
  - d. Subcontractor shall maintain a log with the One-Call information which shall be made available to Blattner upon request.
- 32.** Subcontractor assumes exclusive responsibility for protection of its personnel, materials, equipment, facilities, and work.
- 33.** The Subcontractor must provide its personnel with the appropriate training, materials, equipment, facilities, and tools to perform the Work.
- 35.** If Subcontractor or any of its employees or agents, subcontractors or suppliers of any tier, utilizes any facilities, work areas or equipment of Blattner, including but not limited to ladders, scaffolds, walkways, PPE, cranes or hoists, then Subcontractor assumes exclusive responsibility relating to such use and agrees to protect, defend, indemnify and hold Blattner harmless from any and all claims arising out of or connected with such usages.
- 36.** Subcontractor must provide sufficient, safe, and proper facilities at all times for Blattner or the Project Site owner or developer to inspect the Work.
- 37.** Subcontractor acknowledges the requirement that all their employees and subcontractors shall attend the Site-Specific Orientation before any work begins in the field. Subcontractor is to be familiar and compliant with all of Blattner's Health and Safety Requirements, along with all local, federal, and environmental regulations.
- 38.** If any citations by any regulatory agency (including OSHA) are issued against Blattner, the Owner, or other contractors at the Project Site based upon:
- a. non-compliance with safety regulations by the Subcontractor; or
  - b. violations by the Subcontractor of any safety regulations affecting employees of the Subcontractor or others; or
  - c. injury to: (i) any of the employees or agents, subcontractors or suppliers of any tier, of the Subcontractor, (ii) any third party under the Subcontractor's control or supervision; or (iii) Blattner or its employees or agents, subcontractors or suppliers of any tier, Owner or its employees or agents, subcontractors or suppliers of any tier, or any other third party relating to Subcontractor's acts or omissions.

Then Subcontractor will defend, protect, hold harmless and indemnify Blattner for all losses, costs, delays, penalties, liabilities, damages, and expenses, including all attorneys' fees that Blattner may sustain as a result of safety related citations issued against Blattner, the Owner, or other contractors at the Project Site, or from contesting the same or both.

**Subcontractor will abide by all safety rules, practices and programs as established by the Owner Contract (sometimes referred to as "Prime Contract") between Blattner and the owner or developer of the Project Site (the "Owner"), Owner, all governmental enforcement agencies (including, but not limited to, OSHA), and Blattner (including, but not limited to, Blattner's Drug Testing Policy) and all other applicable safety rules and regulations. Subcontractor will be exclusively liable for the safety of its employees and agents, subcontractors or suppliers of any tier. A copy of the Site-Specific Safety Handbook is available upon request.**

**EXHIBIT C****Quality, Inspection, and Reporting Requirements****Quality Control**

The Subcontractor must have a quality control program consistent with prudent industry practices, procedures, and techniques outlining the Subcontractor's internal processes, procedures, and instructions to ensure that the Work is performed in a safe, consistent, and quality manner ("**Quality Control Plan**"). The Quality Control Plan must address inspection, testing, identification of deficiencies, and correct action. The Subcontractor must also comply with all engineering and original equipment manufacturer process controls applicable to the Work.

**Benchmarking**

The Subcontractor will actively participate in benchmarking activities associated with the Work. The Subcontractor will cooperate with Blattner, the Owner, and other key stakeholders to align expectations and establish agreed upon benchmarks for the Work. Once established, the Subcontractor will sign the relevant benchmark documents and all future work will be performed using established benchmarks.

**Inspection and Testing**

During the performance of the Work, the Subcontractor must document and maintain inspection and testing records for the Work using Blattner's quality forms unless the Subcontractor receives written authorization from Blattner to use a different form. If the Subcontractor intends to use a third party testing agency, the Subcontractor must demonstrate to Blattner's reasonable satisfaction that:

- The testing personnel are experienced in the testing methods being used;
- The testing personnel have completed any required training and carry any required certifications;
- The test methods being used conform to prudent industry practices, procedures, and techniques.

Upon completion of the Work (or a portion of the Work), Blattner has the right to inspect such Work and Blattner will notify the Subcontractor of any deficiencies discovered in the Work. Blattner may reject any damaged, nonconforming, or defective Work and the Subcontractor must replace any rejected Work at its expense in a timely manner which supports Blattner's construction schedule. If Blattner determines that any part of the Work is nonconforming, the Subcontractor must participate in Blattner's nonconformance reporting process.

The Subcontractor will participate in any Blattner field audits as requested by Blattner.

**Materials and Equipment**

Blattner has the right to visit the facilities of the Subcontractor's material suppliers, if any, and witness the production and packaging of the portions of the Work, provided Blattner makes reasonable arrangements in advance of such visits.

The Subcontractor must have adequate procedures to control all materials and equipment related to the Work. At a minimum, the Subcontractor's procedures must address the following:

- Receipt, inspection, storage, and maintenance procedures that comply with all of the Subcontractor's material supplier's requirements;
- Control and handling of materials and equipment that are lost, damaged, or otherwise unsuitable for use;
- Identification and tracking of materials and equipment;
- Turnover of records to Blattner as required.

**EXHIBIT D**  
**Insurance Requirements**

Blattner uses **myCOI** to track and collect insurance compliance per the requirements below. Upon Blattner's receipt of this executed Agreement, Subcontractor's will receive an email from [registration@mycoitracking.com](mailto:registration@mycoitracking.com). Evidence will need to be submitted and approved by Subcontractor's agent. If certificates are not provided prior to Work, or if certificate is not approved, then the Subcontractor assumes all liability. If the Subcontractor subcontracts any of this Work to a third party, the Subcontractor must require that such third party also carry suitable insurance and furnish satisfactory evidence thereof to **myCOI**.

**myCOI**

1075 Broad Ripple Ave, Suite 313

Indianapolis, IN 46220

(317) 759-9426

[CertificateRequest@myCOIsolution.com](mailto:CertificateRequest@myCOIsolution.com)

[Support@myCOItracking.com](mailto:Support@myCOItracking.com)

<b>Commercial General Liability</b>	
\$1,000,000	Personal & Advertising Injury
\$1,000,000	Any one person or occurrence; Premises-operations; products-completed operations; independent contractors; broad form property damage, including Bodily Injury and Property Damage.
\$5,000	Medical Expense (Any one person)
\$2,000,000	General Aggregate (Applies Per Project)
\$2,000,000	Products- Completed Operations Aggregate
<b>Commercial Automobile Liability</b>	
\$1,000,000	Each Accident
<b>Worker's Compensation</b>	
Statutory	
<b>Employer's Liability (Coverage B on the Workers Compensation Policy)</b>	
\$500,000	Each accident or employee injury/disease
\$500,000	Disease Each employee
\$500,000	Disease Policy Limit
<b>Umbrella Coverage</b>	
\$5,000,000	Each occurrence Electrical Subcontractors and Transportation Haulers Only
\$1,000,000	Each occurrence All others
<b>Cargo Coverage (If applicable)</b>	
\$2,000,000	Each occurrence

**Commercial General Liability.** Commercial General Liability insurance required under this Agreement shall be on ISO Form CG 00 01 or its equivalent and include coverage for bodily injury or property damage liability arising from premises, operations, independent contractors, products-completed operations, blanket contractual liability, XC&U, sudden and accidental pollution, personal injury and advertising injury. To the extent that Subcontractor's Commercial General Liability insurance is subject to aggregate limits, policies shall be endorsed to apply such aggregate limits separately to the Project. Subcontractor shall include verification statements on the certificate or a separate document to confirm that 1)

there is not a subsidence exclusion on the Commercial General Liability policy, and 2) Independent Contractors have not been excluded from the Commercial General Liability policy.

**Commercial Automobile Liability.** Commercial Automobile Liability insurance required under this Agreement shall be on ISO Form CA 00 01, or its equivalent and shall provide coverage for liability for bodily injury and property damage arising from the use or operation of any auto including those owned, hired, non-owned and otherwise operated or used by or on behalf of the Subcontractor.

Workers' Compensation, including Employers' Liability. Workers' Compensation insurance required under this Agreement shall provide statutory coverage in the state where the Work is being performed and include coverage for all Owners, partners and proprietors.

**Umbrella Liability.** Umbrella Liability insurance required under this Agreement shall follow the form of the Commercial General Liability insurance, Commercial Automobile Liability insurance, and Employers' Liability insurance as required in this Agreement. To the extent that Subcontractor's Umbrella Liability insurance is subject to aggregate limits, policies shall be endorsed to apply such aggregate limits separately to the Project.

\*Any combination of higher primary limits and lower umbrella limits is permissible so long as the sum of the primary and umbrella limits held by Subcontractor is equal to the sum of the primary and Umbrella Liability limits listed above.

**Additional Insured Requirements.** The Subcontractor shall endorse the Commercial General Liability, Commercial Automobile Liability and Umbrella Liability policies to add Blattner, ITS PARENTS, SUBSIDIARIES, RELATED CORPORATIONS, OFFICERS, DIRECTORS AND EMPLOYEES, AND Owner, FINANCING PARTIES AND THEIR DIRECTORS, OFFICERS AND EMPLOYEES and all other persons required in the Agreement, as additional insureds with respect to liability arising out of operations performed or completed for Blattner and the Owner by the Subcontractor. The additional insured endorsements to Subcontractor's Commercial General Liability policy shall be on ISO Form CG 20 10 07 04 (ongoing operations) and CG 20 37 07 04 (products-completed operations) or their equivalent. The additional insured endorsements to Subcontractor's Automobile Liability insurance shall be on ISO Form CA 20 48, or its equivalent. The Umbrella Liability insurance shall follow form the treatment of the additional insured under the Commercial General Liability and Commercial Automobile Liability policies.

Additional insured coverage afforded by Subcontractor's Commercial General Liability, Automobile Liability and Umbrella Liability insurance shall be primary and non-contributing with respect to any insurance or self-insurance available to Blattner. Any other insurance or self-insurance maintained by Blattner, or any additional insured coverage provided by Blattner pursuant to the Agreement, shall be excess of, and non-contributory with, the coverage afforded by Subcontractor's Commercial General Liability, Automobile Liability and Umbrella Liability insurance, if any.

**Certificates of Insurance.** The Subcontractor's policy should be endorsed to such effect and must be stated on the insurance certificate. All insurance coverage will have a current AM Best Company Rating of not less than A-VII of better and authorized to transact business in the state where the Work will be performed by Subcontractor. All insurance required pursuant to this Agreement shall be in force prior to the commencement Effective Date, shall be maintained for the duration of the Project, and Subcontractor agrees to continue to procure and maintain the products-completed operations liability insurance coverage during the Warranty Period. All terms and conditions of coverage shall be maintained during this completed operations period, including the required coverage limits and the requirement to provide Blattner with coverage as an additional insured for completed operations. **No cancellation or material changes in the policies will become effective except upon thirty (30) days' written notice.**

**Waiver of Subrogation.** Subcontractor agrees to waive all rights of subrogation against Blattner and Owner, and shall cause each of its subcontractors to waive all rights of subrogation against Blattner, ITS PARENTS, SUBSIDIARIES, RELATED CORPORATIONS, OFFICERS, DIRECTORS AND EMPLOYEES, Owner, FINANCING PARTIES AND THEIR DIRECTORS, OFFICERS AND EMPLOYEES, as respects loss, damage, claims, suits or demands, howsoever caused.

EXHIBIT E

U.S. Department of Labor  
Wage and Hour Division

PAYROLL  
For contractor's optional use; see instructions at [dol.gov/agencies/whd/forms/wh347](https://dol.gov/agencies/whd/forms/wh347)  
*Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.*



NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS		OMB No. 1235-0008 Expires 09/30/2026										
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION		PROJECT OR CONTRACT NO.								
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER OF WORKER (e.g., LAST 4 DIGITS OF SOCIAL SECURITY NUMBER)	(2) # OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE		(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK	
			MON	TUE				WED	THU	FRI	SAT	SUN		FICA
		(54) Operator - Group IX	Q											
		Select one of the follow work cla	Q											
		Select one of the follow work cla	Q											
		Select one of the follow work cla	Q											
		Select one of the follow work cla	Q											
		Select one of the follow work cla	Q											
		(72) Truck Drivers - Group IX	Q											
		Select one of the follow work cla	Q											
		Select one of the follow work cla	Q											

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to " furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)



Date \_\_\_\_\_  
I, \_\_\_\_\_ (Name of Signatory Party) \_\_\_\_\_ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ (Building or Work) \_\_\_\_\_ day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full \_\_\_\_\_ (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:  
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ - in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ - Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS:	
NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE.	



**TYPE "H" –  
HEAVY ENGINEERING**  
Effective January 1, 2023

	Trade Classification	Base Rate	Fringe Rate	Apprenticeship
(1)	<b>Asbestos workers/Heat &amp; Frost Insulators</b>	35.56	12.26	0.60
(2)	<b>Asbestos workers/Heat &amp; Frost Insulators: Los Alamos County</b>	37.99	12.26	0.60
(3)	<b>Boilermaker/blacksmith</b>	35.88	32.28	0.60
(4)	<b>Boilermaker/blacksmith: San Juan County</b>	36.83	31.88	0.60
(5)	<b>Bricklayer/Block layer/Stonemason</b>	25.54	8.81	0.60
(6)	<b>Carpenter/Lather</b>	27.73	12.14	0.60
(7)	<b>Carpenter: Los Alamos County</b>	33.18	13.58	0.60
(8)	<b>Millwright/pile driver</b>	37.10	28.30	0.60
(9)	<b>Cement Mason</b>	22.30	7.41	0.60
<b>Electricians-Outside Classifications: Zone 1</b>				
(10)	Ground man	25.43	11.76	0.60
(11)	Equipment Operator	36.48	16.09	0.60
(12)	Lineman or technician	46.09	18.52	0.60
(13)	Cable Splicer	47.22	18.81	0.60
<b>Electricians-Outside Classification: Zone 2</b>				
(14)	Ground man	25.43	11.76	0.60
(15)	Equipment Operator	36.48	16.09	0.60
(16)	Lineman or technician	46.09	18.52	0.60
(17)	Cable Splicer	47.22	18.81	0.60
<b>Electricians-Outside Classifications: Los Alamos</b>				
(18)	Ground man	26.15	11.78	0.60
(19)	Equipment Operator	37.54	16.13	0.60
(20)	Lineman or technician	47.29	18.82	0.60
(21)	Cable Splicer	51.93	19.98	0.60

Trade Classification		Base Rate	Fringe Rate	Apprenticeship
<b>Electricians-Inside Classifications: Zone 1</b>				
(22)	Wireman/low voltage technician	36.75	12.40	0.60
(23)	Cable Splicer	40.43	12.51	0.60
<b>Electricians-Inside Classification: Zone 2</b>				
(24)	Wireman/low voltage technician	40.06	12.50	0.60
(25)	Cable Splicer	43.74	12.61	0.60
<b>Electricians-Inside Classification: Zone 3</b>				
(26)	Wireman/low voltage technician	42.26	12.57	0.60
(27)	Cable Splicer	45.94	12.68	0.60
<b>Electricians-Inside Classification: Zone 4</b>				
(28)	Wireman/low voltage technician	46.31	12.69	0.60
(29)	Cable Splicer	49.99	12.80	0.60
<b>Electricians-Inside Classification: Doña Ana, Hidalgo, Luna, and Otero County</b>				
(30)	Wireman/low voltage technician	32.07	9.81	0.60
(31)	Cable splicer	32.07	9.81	0.60
<b>Electricians-Inside Classification: Los Alamos</b>				
(32)	Wireman/low voltage technician	42.26	14.68	0.60
(33)	Cable Splicer	45.94	14.98	0.60
<b>Glazier</b>				
(34)	Glazier/Fabricator	21.25	6.70	0.60
(35)	Delivery Driver	12.00	6.70	0.60
(36)	Painter- Industrial	22.25	10.77	0.60
(37)	Paperhanger	19.75	10.77	0.60

Trade Classification		Base Rate	Fringe Rate	Apprenticeship
<b>Ironworker</b>				
(38)	Ironworker Journeyman	28.05	18.30	0.60
(39)	Probationary Ironworker	22.44	18.30	0.60
<b>Drywall Finisher/Taper - Industrial</b>				
(40)	Ames tool operator	27.67	8.40	0.60
(41)	Hand finisher/machine texture	26.67	8.40	0.60
(42)	<b>Plumber/Pipefitter</b>	38.63	14.55	0.60
(43)	<b>Sheet Metal Worker</b>	35.44	19.00	0.60
<b>Roofer</b>				
(44)	Roofer Journeyman	26.94	9.36	0.60
(45)	Roofer Helper	16.16	9.36	0.60
<b>Operators</b>				
(46)	Group I	23.34	6.74	0.60
(47)	Group II	23.55	6.74	0.60
(48)	Group III	23.78	6.74	0.60
(49)	Group IV	23.93	6.74	0.60
(50)	Group V	24.04	6.74	0.60
(51)	Group VI	24.26	6.74	0.60
(52)	Group VII	24.28	6.74	0.60
(53)	Group VIII	26.44	6.74	0.60
(54)	Group IX	32.87	6.74	0.60
(55)	Group X	36.54	6.74	0.60
<b>Laborers</b>				
(56)	Group I- Unskilled	18.34	7.11	0.60
(57)	Group II – Semi-skilled	19.09	7.11	0.60
(58)	Group III- Skilled	20.60	7.11	0.60

TYPE "H" – HEAVY ENGINEERING

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Effective January 1, 2023

	Trade Classification	Base Rate	Fringe Rate	Apprenticeship
(59)	Group IV - Specialty	21.00	7.11	0.60
<b>Laborers-Underground</b>				
(60)	Group I	20.25	6.93	0.60
(61)	Group II	20.62	6.93	0.60
(62)	Group III	20.97	6.93	0.60
(63)	<b>Soft Floor Layer</b>	21.00	9.20	0.60
<b>Truck Drivers</b>				
(64)	Group I	19.00	9.10	0.60
(65)	Group II	19.00	9.10	0.60
(66)	Group III	19.00	9.10	0.60
(67)	Group IV	19.00	9.10	0.60
(68)	Group V	19.00	9.10	0.60
(69)	Group VI	19.00	9.10	0.60
(70)	Group VII	19.00	9.10	0.60
(71)	Group VIII	19.00	9.10	0.60
(72)	Group IX	25.00	9.10	0.60
<b>Maintenance Sub Group IX</b>				
(73)	Rate I	20.90	9.00	0.60
(74)	Rate II	21.77	9.00	0.60
(75)	Rate III	22.24	9.00	0.60

**NOTE: All contractors are required to pay SUBSISTENCE, ZONE, AND INCENTIVE PAY according to the particular trade. More information available at <https://www.dws.state.nm.us/public-works>.**

For more information about the Subsistence, Zone, and Incentive Pay rates, or to file a wage claim, contact the New Mexico Department of Workforce Solutions Labor Relations Division at (505) 841-4400 or visit us online at [www.dws.state.nm.us](http://www.dws.state.nm.us).